

Local Government Law BULLETIN

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FIRST COUNCIL MEETING

Guidelines for the agenda

The final stage of local government transformation commences formally with the holding of the first meeting of the newly elected councils. This meeting must take place at the interim seat of the municipality within 14 days after the council has been declared elected. If it is a district council, the meeting must be held within 14 days after all the members to be appointed by local councils, have been appointed.

At the first meeting a number of issues must be decided and key office-bearers must be elected. This article deals with an agenda for the

different types of municipalities. The agendas for these municipalities differ because of the different office-bearers that will have to be elected.

These guidelines for an agenda of the first meeting of a municipal council have been prepared for the Eastern Cape. Because these guidelines give effect to the provisions of the Municipal Structures Act (the Act), they are applicable also to councils in the other provinces.

First meeting: the date

In the Eastern Cape the interim municipal manager must, within three days after the council has been declared elected, inform the elected councillors in writing of the venue, date and the time of the first meeting of the council.

Quorum

A majority of the elected councillors must be present at the meeting of the council before a vote may be taken on any item of the agenda.

This means that 50 % plus one of the elected councillors must be present and vote.

Voting

Schedule 3 of the Act prescribes specific voting procedures for electing office-bearers. The basic principle is that a successful candidate must have 50 % plus one of the votes of the councillors present. The procedure is set out in Annexure B below.

The other items on the agenda are also decided by a majority of the votes cast. This means that 50 % plus one of the elected councillors constituting a quorum at the time of voting, must vote for a motion. If there is an equal number of councillors for and against the motion, the councillor presiding must exercise a casting vote in addition to that councillor's vote as a councillor.

FIRST COUNCIL MEETING

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PART 1 OF THE AGENDA

This part will be presided over by the interim municipal manager as appointed in the section 12 Notices.

1. Reading of notice convening the first meeting

The interim municipal manager must read the notice convening the first meeting of the council to formally constitute the meeting.

2. Oath or affirmation

The Eastern Cape decided that councillors should swear or affirm faithfulness to the Republic of South Africa and obedience to the Constitution (Annexure A at p 3). The oath or affirmation must be administered by the Interim Municipal Manager

3. Election of speaker

Section 36 of the Act requires a council to elect a speaker at its first meeting after the elections. If a municipality is of a type that has a plenary executive system (mentioned in sections 9(e) or (f) or 10(c) of the Act), the speaker must be called a mayor. The election must take place in accordance with Schedule 3 of the Act.

PART 2 OF THE AGENDA

This part of the meeting is presided over by the newly elected speaker.

The interim municipal manager must inform the meeting that the newly elected speaker will take the Chair and preside over the rest of the meeting. The speaker then takes the Chair and presides over the rest of the meeting.

If a municipality is of the type that

has a collective executive system (mentioned in sections 8(a)-(d), 9(a)-(b) and 10(a) of the Act) items 4, 5, and 6 must appear on the Agenda.

4. Establishment of executive committee

The council must choose to establish an executive committee in terms of section 42 of the Act. A councillor, preferably the leader of the majority party, should move a motion without notice to this effect.

5. Election of members of executive committee

The council must elect members of the executive committee in terms of section 45 of the Act. The election of members of the executive committee must be in accordance with section 43 of the Act and must result, in general, in proportionality.

6. Election of mayor

The council must elect a mayor from amongst the members of the executive committee in terms of section 48 of the Act. The election must be in accordance with Schedule 3 of the Act.

If a municipality is of the type that has a mayoral executive system (mentioned in sections 8(e)-(g), 9(c)-(d) and 10(b) of the Act), items 7 and 8 must appear on the Agenda

7. Decision to have an executive mayor

The council must choose in terms of section 54 of the Act to have an executive mayor. A councillor, preferably the leader of the majority party, should move a motion without notice to this effect.

8. Election of executive mayor

The council must elect an executive mayor in terms of section 55 of the

Act. The election must be in accordance with Schedule 3 of the Act.

9. Election of council's representatives on district council

A local council must elect the number of councillors as determined in the Section 12 Notice as section 23(2) councillors to represent the local council on the district council. The election must be in accordance with Schedule 2 of the Act.

10. Establishment of other committees

The council may, in terms of section 79 of the Act, establish other committees. These committees must be established by way of motion. A councillor, preferably a senior member of the majority party, should move a motion without notice to this effect.

11. Appointment of members to other committees

Section 79 of the Act provides for the appointment of councillors as members of other committees of the council. No procedure is prescribed.

12. Appointment of acting municipal manager

The interim municipal manager, as designated in the Section 12 Notice, was designated only until the council appoints a municipal manager or acting municipal manager in terms of section 82 of the Act. The council must at least agree on a procedure for the appointment of a municipal manager or acting municipal manager.

13. Delegation of powers

The council must delegate certain powers to functionaries to ensure the smooth running of the affairs of the council.

14. Determination of bank account

The council must determine the bank at which the municipality's accounts are held. The council must at least agree on a procedure (ten-

der etc) to determine the bank at which the accounts must be held.

Annexure A: Oath / Affirmation

I, _____

swear / solemnly affirm that I will be faithful to the Republic of South Africa and will obey, respect and uphold the Constitution and all other law of the Republic, and I solemnly promise to perform my functions as councillor of the council of

_____ municipality to the best of my ability.

So help me God / I solemnly affirm

FULL NAMES

Annexure B: Method of electing municipal office-bearers

The method of election set out in Schedule 3 of the Act applies whenever a municipal council elects a speaker, an executive mayor, a deputy executive mayor, a mayor or a deputy mayor.

- The person presiding at the meeting electing the first speaker - who is the interim municipal manager - calls for the nomination of candidates.
- Two councillors nominate and second a candidate by signing a form determined by the interim municipal manager. The candidate must accept the nomination by signing the nomination form or any other form of written confirmation.
- On closure of nomination, the person presiding at the meeting announces the names of the persons who have been nominated as

candidates. No debate on the issue is permitted.

- If only one candidate is nominated, the person presiding declares the candidate elected.
- If more than one candidate is nominated, a vote must be taken by secret ballot and each councillor present at the meeting has one vote. The person who receives the majority of votes cast, is declared by the person presiding as elected. The majority of votes means that a candidate must receive 50 % plus one vote of the votes cast.
- If no candidate receives a majority of votes, the candidate who received the lowest number of votes is eliminated and another vote is taken on the remaining candidates. This procedure is followed until one candidate receives the majority of the votes. If, in the elimination procedure, two or more candidates have the lowest number of votes, a separate vote must be taken to determine which candidate must be eliminated.
- If two candidates are nominated, or through the elimination procedure two candidates remain, and they receive the same number of votes, a further meeting of the council must be held within seven days at a time determined by the presiding person. At that meeting the entire election procedure must be repeated. This means that new nominations must be called and a vote taken.

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